

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred Senate Bill 311, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 31-9-2-14, AS AMENDED BY P.L.1-2006,
- 4 SECTION 496, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) "Child abuse or neglect", for
- 6 purposes of IC 31-32-11-1, IC 31-33, IC 31-34-7-4, and IC 31-39-8-4,
- 7 refers to a child who is alleged to be a child in need of services as
- 8 described in IC 31-34-1-1 through IC 31-34-1-5.
- 9 (b) **For purposes of subsection (a)**, the term **under subsection (a)**
- 10 does not refer to a child who is alleged to be a child in need of services
- 11 if the child is alleged to be a victim of a sexual offense under
- 12 IC 35-42-4-3 unless the alleged offense under IC 35-42-4-3 involves
- 13 the fondling or touching of the buttocks, genitals, or female breasts.
- 14 (c) **"Child abuse or neglect", for purposes of IC 31-34-2.3, refers**
- 15 **to acts or omissions by a person against a child as described in**
- 16 **IC 31-34-1-1 through IC 31-34-1-9."**

Page 1, between lines 14 and 15, begin a new paragraph and insert:
"SECTION 3. IC 31-34-2.3 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2007]:

Chapter 2.3. Removal of Alleged Perpetrators

Sec. 1. If, after an investigation, the department determines that:

- (1) a child is a child in need of services; and**
- (2) the child would be protected in the child's residence by the removal of the alleged perpetrator of child abuse or neglect; the department may file a petition to remove the alleged perpetrator from the child's residence instead of attempting to remove the child from the child's residence.**

Sec. 2. (a) A court may issue a temporary restraining order in an action by the department for the removal of an alleged perpetrator of child abuse or neglect under section 1 of this chapter if the department's petition to remove the alleged perpetrator states facts sufficient to satisfy the court of all of the following:

- (1) There is an immediate danger to the physical health or safety of the child or the child has been a victim of sexual abuse.**
- (2) There is not time for an adversary hearing given the immediate danger to the physical health or safety of the child.**
- (3) The child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence.**
- (4) The issuance of a temporary restraining order is in the best interest of the child.**

(b) The court shall order the temporary removal of an alleged perpetrator of child abuse or neglect from a child's residence if the court finds:

- (1) that the child is not in danger of child abuse or neglect from a parent or other adult with whom the child will continue to reside in the child's residence; and**
- (2) one (1) or more of the following:**
 - (A) The presence of the alleged perpetrator in the child's residence constitutes a continuing danger to the physical health or safety of the child.**

(B) The child has been the victim of sexual abuse, and there is a substantial risk that the child will be the victim of sexual abuse in the future if the alleged perpetrator remains in the child's residence.

Sec. 3. The department shall serve a temporary restraining order issued under section 2 of this chapter on:

- (1) the alleged perpetrator of child abuse or neglect; and
- (2) the parent or other adult with whom the child will continue to reside.

Sec. 4. A temporary restraining order issued under this chapter expires not later than the fourteenth day after the date the temporary restraining order is issued.

Sec. 5. A temporary restraining order issued under this chapter or any other order that requires the removal of an alleged perpetrator of child abuse or neglect from the residence of a child must require that the parent or other adult with whom the child will continue to reside in the child's residence makes reasonable efforts:

- (1) to monitor the residence; and
- (2) to report to the department and the appropriate law enforcement agency any attempt by the alleged perpetrator of child abuse or neglect to return to the child's residence.

Sec. 6. A parent or other adult with whom a child continues to reside after the issuance of a temporary restraining order for removal of an alleged perpetrator of child abuse or neglect who knowingly or intentionally fails to comply with the requirements under section 5 of this chapter commits a Class A misdemeanor.

Sec. 7. An alleged perpetrator of child abuse who knowingly or intentionally returns to a child's residence in violation of an order issued under this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if the alleged perpetrator has a prior unrelated conviction under this section."

Page 3, after line 24, begin a new paragraph and insert:

1 "SECTION 5. [EFFECTIVE JULY 1, 2007] **IC 31-34-2.3-6 and**
2 **IC 31-34-2.3-7, both as added by this act, apply only to offenses**
3 **committed after June 30, 2007."**

4 Renumber all SECTIONS consecutively.
 (Reference is to SB 311 as printed February 16, 2007.)

and when so amended that said bill do pass.

Representative Hoy